

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Toshio Chiba et al.

Application No.: 10/707,960

Confirmation No.: 1959

Filed: January 28, 2004

Art Unit: 3736

For: IN-VIVO INFORMATION EXTRACTING
SYSTEM, TAG DEVICE USED FOR THE
SAME, AND RELAY DEVICE

Examiner: K. Rajan

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Examiner has initially required restriction between claims 5, 7, 9 and 11-13. In particular, in the outstanding Restriction Requirement the Examiner states that the subject application contains claims directed to two patentably distinct species of the invention as follows:

Group A: Types of tag antennae

Species 1: Planar loop antenna; claim 5, 7, 9 and 12: (e.g., paragraphs [0031], [0042]);
and

Species 2: Low-frequency coil antenna 5, 7, 9 and 11: (e.g., paragraphs [0031], [0042]).

However, new claim 29, which has been added by the Supplemental Amendment filed herewith, defines yet another species:

Species 3: a capsule antenna; claims 5, 7, 9, 13 and 29: (e.g., paragraphs [0031]).

Therefore, in response to the outstanding Restriction Requirement and in consideration of set forth in the Office Action mailed September 14, 2007, and in consideration of new claim 29 and Species 3, as discussed above and filed in the Supplemental Amendment filed herewith, Applicants hereby provisionally elect the above proposed Group A: Species 3- claims 5, 7, 9 and 29, as drawn to an in-vivo extracting system and a capsule antenna structure for continued examination, with traverse. Applicants make these elections based on the understanding that Applicants are not prejudiced against filing one or more divisional applications that cover the non-elected claims.

In addition, Applicants respectfully traverse the original Restriction/Election Requirement for the following reasons.

MPEP Section 803 states:

[i]f the search and examination of an entire application can be made *without serious burden*, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions (emphasis added).

In particular, the claims of the present invention would appear to be part of the same technology area. Though the Commissioner may require restriction if two or more independent and distinct inventions are claimed in a single application (*see* 37 CFR 1.142(a)), in the present case, though the claimed subject matter may be classified in different subclasses of the same class, Applicants respectfully submit the inventions are not independent and examination of the entire application can be performed without serious burden. That is, Applicants respectfully submit that an examination of one set of claims will require a search in subclasses common to the same technology area.

Therefore, Applicants respectfully request that the outstanding Restriction/Election Requirement be withdrawn and the entire application be examined. However, if the Restriction/Election Requirement is not withdrawn, examination on the merits of Claims 5, 7, 9, 13 and 29 is believed in order and an early and favorable action to that effect is respectfully requested.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 22-0185, under Order No. 22040-00027-US from which the undersigned is authorized to draw.

Dated: October 15, 2007

Respectfully submitted,

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